

MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 17 JULY 2007

Present: The Mayor, Councillor N Ebbeck (Chairperson) (Wahroonga Ward)
Councillors A Andrew & E Malicki (Comenarra Ward)
Councillors L Bennett & T Hall (St Ives Ward)
Councillor I Cross (Wahroonga Ward)
Councillor A Ryan (Gordon Ward)
Councillors M Shelley & J Anderson (Roseville Ward)

Staff Present: General Manager (John McKee)
Director Corporate (John Clark)
Director Development & Regulation (Michael Miocic)
Manager Development Assessment Services (Matthew Prendergast)
Director Operations (Greg Piconi)
Director Strategy (Steven Head)
Manager Urban Planning (Antony Fabbro)
Director Community (Janice Bevan)
Senior Governance Officer (Geoff O'Rourke)
Director Development & Regulation's PA (Judy Murphy)

The Meeting commenced at 7.03pm

The Mayor offered the Prayer

224 APOLOGIES

File: S02194

Councillor M Lane tendered an apology for non-attendance (prior commitment) and requested leave of absence.

Resolved:

(Moved: Councillors Ebbeck/Cross)

That the apology by Councillor M Lane for non-attendance be accepted and leave of absence be granted.

CARRIED UNANIMOUSLY

DECLARATIONS OF INTEREST

The Mayor adverted to the necessity for Councillors and staff to declare a Pecuniary Interest/Conflict of Interest in any item on the Business Paper.

No such interest was declared.

225 **Confirmation of Reports to be Considered in Closed Meeting**

File: S02499

Resolved:

(Moved: Councillors Cross/Shelley)

That in accordance with the provisions of Section 10 of the Local Government Act 1993, all officers' reports be released to the press and public, with the exception of:

- C.1 **Proposed Lease of Firs Estate Cottage, Roseville -**
(Section 10A(2)(c) - Information that would confer a commercial advantage)

CARRIED UNANIMOUSLY

ADDRESS THE COUNCIL

The following members of the public addressed Council on items not on the Agenda:

Z Desiatnik
S Chisholm
D Alcorn
S Thomas

DOCUMENTS CIRCULATED TO COUNCILLORS

The Mayor adverted to the documents circulated in the Councillors' papers and advised that the following matters would be dealt with at the appropriate time during the meeting:

Councillors **Traffic & Safety Issues on Mona Vale Road** - Memorandum by
Information: Director Operations dated 18 June 2007 in answer to a Question
Without Notice by Councillor Tony Hall

Kate Street Scout Hall - Major Earthworks - Memorandum by
Director Operations dated 19 June 2007 in answer to a Question
Without Notice by Councillor Elaine Malicki

Removal of Vegetation from Council's Nature Strips - Storm Damage - Memorandum by Acting Director Operations (Ian Taylor) dated 22 June 2007 in answer to a Resolution of Ordinary Meeting of Council of 19 June 2007

Investigation of Fence at 440 Bobbin Head Road, North Turramurra - Memorandum by Director Development & Regulation dated 25 June 2007 in answer to a Question Without Notice by Councillor Laura Bennett

Bland Shire - Costs - Memorandum by Director Corporate dated 4 July 2007 in answer to a Question Without Notice by Councillor Michael Lane

Malicious Damage - Duntroon Avenue & Hill Street Shops, Roseville - Memorandum by Acting Director Operations (Ian Taylor) dated 4 July 2007 in answer to a Question Without Notice by Councillor Maureen Shelley

- Late Items:
- Refer MM.1 - KYDS Fundraising Dinner - Mayoral Minute by the Mayor, Councillor Nick Ebbeck dated 11 July 2007
 - Refer MM.2 - Queen's Birthday Honours 2007 - Mayoral Minute by the Mayor, Councillor Nick Ebbeck dated 11 July 2007
 - Refer MM.3 - Development Applications - Mayoral Minute by the Mayor, Councillor Nick Ebbeck dated 16 July 2007
 - Refer GB.10 - Environmental Levy Small Grants Scheme - Round Four - Memorandum by Director Strategy dated 11 July 2007 regarding an amendment to Page 3 of the Report (BP Page 241) - Financial Considerations
- Memorandums:
- Refer GB.5 - 2007 NSROC Annual Conference - Memorandum by Director Corporate dated 16 July 2007 regarding an amendment to the Recommendation in the report.
 - Investment Funds - Memorandum by Director Corporate dated 13 July 2007 in answer to a Question Without Notice by Councillor Laura Bennett (to be circulated again under the cover of Councillors Information)

Councillor Ryan arrived

CONFIRMATION OF MINUTES

226 Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 19 June 2007
Minutes numbered 201 to 223

Resolved:

(Moved: Councillors Hall/Shelley)

That Minutes numbered 201 to 223 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR

227

KYDS Fundraising Dinner

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File: S05139

An invitation has been received from the Ku-ring-gai Youth Development Service (KYDS), to attend a fundraising dinner at the Roseville Golf Club on Thursday, 9 August. Tickets for the dinner are \$115 per person or \$1,150 for a table of 10 people.

KYDS is a non-profit community based counselling service that provides support for young people at risk on the North Shore. It is a free and confidential service which aims to support young people and families, provide group-work services, both educational and therapeutic, and encourage community involvement.

I would like to propose that Council reserve a table for 10 people for \$1,150 for the dinner, and that Councillors and Senior Staff interested in attending the dinner advise me by Friday, 20 July 2007. Should any Councillors' partners wish to attend the dinner, they would be required to pay separately, as per established Council policy and past practice.

Resolved:

That Council reserve up to 2 tables for 20 people for \$2,300 for the dinner, and that Councillors and Senior Staff interested in attending the dinner advise me by Friday, 20 July 2007. Should any Councillors' partners wish to attend the dinner, they would be required to pay separately, as per established Council policy and past practice.

CARRIED UNANIMOUSLY

228

Queen's Birthday Honours 2007

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File: S02767

I am pleased to inform you that seven [7] Ku-ring-gai citizens, through their outstanding achievements and services to the community, have been awarded 2007 Queen's Birthday Honours.

We are very proud to have so many dedicated and talented Australians as members of the Ku-ring-gai community.

I would like to read to you the names of these special Ku-ring-gai citizens and, on behalf of Council, congratulate them on their excellent contributions to Australian society.

Richard John **Grellman**, Roseville

For service to the community, particularly through leadership roles with Mission Australia and fundraising with Variety, The Children's Charity, and to the finance and insurance sectors.

Henry **Krug**, Roseville

For service to the Jewish community, particularly through the activities of B'nai B'rith.

Mervyn Desmond **Riddle**, Roseville

For service to the community through veterans, school sports and church organisations.

Neil Edwin **Wykes**, Roseville

For service to the community through organisations concerned with the health care of people in the criminal justice system, to the accountancy profession, and to charitable organisations.

Robert Wemyss **Frewin**, Turramurra

For service to the real estate industry, particularly through executive roles with professional organisations, and to the community through charitable, aged care, sporting and service groups.

Hugh Henry **Ralston**, Turramurra

For service to engineering, particularly as a contributor to the advancement of innovative technology, to the Warren Centre for Advanced Engineering, and to the community.

William John **Harvey**, Wahroonga

For service to dentistry as a practitioner and educator in the area of orthodontics, and to the community through support for charitable and church organisations

On behalf of Council, I congratulate all these award winners on their outstanding achievements.

Ku-ring-gai should be proud that it has so many citizens being recognised at the highest levels for their selfless dedication, commitment and contribution to local, national and international communities.

Resolved:

- A. That Council acknowledge the outstanding contribution made by these recipients of 2007 Queen's Birthday Honours to the Ku-ring-gai community and to the well-being of our society.

- B. That the Mayor write to each recipient to thank them on behalf of the Council and community.

CARRIED UNANIMOUSLY

229 **Development Applications**

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Files: S02380, S04813

I wish to briefly report on Council's vastly improved performance in dealing with development applications and other planning and development matters.

In 2004, Council received constant criticism for the length of time taken to determine development applications.

Our median time for processing DAs was well over 100 days, ranking us among the slowest councils in NSW.

New statistics show just how much Council's performance in dealing with DAs has improved since then. Our median processing time is now just 38 days – less than one third the figure three years ago.

This follows several initiatives including streamlining approval processes and Council's new pre-DA service where applicants meet with assessment staff to run through requirements for their DA and iron out any problems prior to lodgement.

We also have a new express DA service where smaller and less complex DAs are given priority and assessed quickly rather than waiting in queue behind much larger ones.

Councillors have also given staff greater delegation to determine DAs, reflecting higher confidence in our staff's ability.

The reduced waiting times mainly benefit the so-called "mums and dads" – homeowners seeking to renovate their homes or maybe add a car port or swimming pool.

In addition to reducing DA processing times, Council has also achieved the following:

- Slashing the number of development applications on hand from more than 1000 in 2003 to just 330 now
- A 60 per cent cut in legal bills for planning matters - from \$2.3 million in 2003 to \$970,000 this year

- A massive reduction in the number of Land and Environment Court appeals arising from Council decisions on development applications – from 128 in 2003/04 to 39 in 2006/07
- A big improvement in Council's success rate in Land and Environment Court appeals from 50 per cent in 2003/04 to 84 per cent in 2006/07.

These statistics highlight just how much Council has improved its performance in planning and development matters.

I am ensuring that Planning Minister Frank Sartor and his department are regularly updated on our performance in these areas and made fully aware of the improvements.

I would also like to formally acknowledge the efforts of Director Miocic and his staff in achieving these great results.

Resolved:

That this Mayoral Minute be received and noted.

CARRIED UNANIMOUSLY

PETITIONS

230 **Acron Oval - Objections to Use as an Unleashed Dog Area - (One Hundred & Eighty-Three [183] Signatures)**

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File: S03014

"We, the undersigned, believe that Ku-ring-gai Council should not allocate Acron Oval to be an UNLEASHED DOG AREA."

Resolved:

(Moved: Councillors Bennett/Hall)

That the Petition be received and referred to the appropriate officer of Council for attention.

CARRIED UNANIMOUSLY

231 **Petition to Amend Suburb Boundary - (Fourteen [14] Signatures)**

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File: S04019

Petition presented by Councillor Tony Hall

"As residents of the cul-de-sac at the northern end of Memorial Avenue, St Ives, we have learnt only recently that our official -address has been changed from St Ives to -

St Ives Chase. The Geographical Names Board has advised verbally that the change was effected in 1994.

For reasons set out below, we, the undersigned, request that the name of the vicinity be amended back to St Ives as it was previously.

1. Six of the eight properties were originally purchased pre 1994, inter alia on the basis that they were located in St Ives and not St Ives Chase.
2. The two properties purchased since 1994, viz No 93 in December 2001 and No 88 as late as December 2005, were purchased on the clear understanding that the location was St Ives. That includes documentation from Council indicating the location as St Ives.
3. The amendment to St Ives Chase was effected without consultation with affected residents, without notice, without any reasons being advanced, and without opportunity to object. Nor was any advice of the amendment provided to residents.
4. The vicinity has always been and continues to be generally perceived as St Ives and not St Ives Chase.
5. With the exception of the last 60 m or so at the northern end of Memorial Avenue, the entire 1.5 km length of Memorial Avenue lies within St Ives.
6. The eight properties in the cul-de-sac should be included in St Ives for the same reasons that the two corner properties, viz Nos 82 and 89 Memorial Aye, and all those properties on the northern side of Toolang Road and fronting Toolang are included in St Ives.
7. It is confusing for anyone looking for Memorial Avenue, St Ives Chase as street directories do not list a Memorial Avenue in St Ives Chase.
8. Despite the change to St Ives Chase apparently having been made some 13 years ago, as late as August 2006 Council was still issuing our Rate Notices and other correspondence addressed to St Ives."

Resolved:

(Moved: Councillors Hall/Shelley)

That the Petition be received and referred to the appropriate officer of Council for attention & a report be submitted back to Council.

For the Resolution: *The Mayor, Councillor N Ebbeck, Councillors
Andrew, Bennett, Hall, Ryan, Shelley & Anderson*

Against the Resolution: *Councillors Cross & Malicki*

GENERAL BUSINESS232 **Protected Disclosures Act - Internal Reporting Policy**

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File: S04255

To recommend the adoption of a revised Internal Reporting Policy for protected disclosures.

Resolved:

(Moved: Councillors Shelley/Malicki)

That the revised Internal Reporting Policy – Protected Disclosures be adopted, subject to the list of Nominated Disclosure Officers being reviewed to more fully reflect the composition and demographics of the staff.

CARRIED UNANIMOUSLY

233 **Statement of Business Ethics**

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File: S05248

To recommend the adoption of a Statement of Business Ethics.

Resolved:

(Moved: Councillors Shelley/Hall)

That the draft Statement of Business Ethics be adopted.

CARRIED UNANIMOUSLY

234 **Transfer to Council of Lot 13 DP 1012827 Nelson Road, Lindfield**

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File: S03709

To advise Council of the acceptance of a proposal to the Department of Planning to transfer Lot 13 DP1012827, located at the rear of 43 Nelson Road, Lindfield into Council's ownership.

Resolved:

(Moved: Councillors Shelley/Andrew)

- A. That Council endorse the acceptance of the land transfer of Lot 13 DP 1012827 from the NSW Department of Planning on the terms and conditions contained in the Land Transfer Agreement and Order.
- B. That the subject land (Lot 13 DP 1012827) be classified as Community Land and further categorised as Natural Area, Bushland upon acquisition, in accordance with the *Local Government Act, 1993*.
- C. That following acquisition of the subject land, it be managed consistent with Wombin Reserve and be governed by Council's generic Bushland Plan of Management (May 2006).
- D. That the Mayor and General Manager be authorised to execute and affix the Common Seal on all documentation associated with the Land Transfer Agreement and Order.
- E. That Council undertake bush regeneration on the subject land in accordance with the allocated Environmental Levy small grant funding to improve the condition of the land.

CARRIED UNANIMOUSLY

235

Environmental Levy Small Grants Scheme - Round Four

File: S04553

To seek Council's support to fund the fourth round of the community small grants scheme funded by the Environmental Levy.

Resolved:

(Moved: Councillors Shelley/Hall)

That Council supports the following applications for funding under round four of the community small grants scheme:

- | | |
|--|---------|
| 1. Warrawee Public School – bush regeneration | \$5,000 |
| 2. Bruce Taylor – Bush regeneration at cliff line Gordon | \$5,000 |
| 3. John Pearman – “Moonview” sustainable house DVD | \$5,000 |
| 4. Friends of Lane Cove National Park– creek regeneration | \$5,000 |
| 5. Julie Antill – Pre-emptive bush regeneration at North Turramurra to North Wahroonga | \$5,000 |

6.	Christine Julian – Community access service, The Spastic Centre NSW - community sustainable garden	\$1,000
7.	Sacred Heart Primary School – bush regeneration	\$5,000
8.	Tom MacDonald - Little Blue Gum Creek rehabilitation	\$5,000
9.	Justine Bednorz – weed identification program for general public	\$4,000

TOTAL **\$40,000**

CARRIED UNANIMOUSLY

236

Proposed Lease of Firs Estate Cottage, Roseville

(Section 10A(2)(c) - Information that would confer a commercial advantage)

File: P39240

Report by Director Corporate & Director Strategy dated 6 July 2007.

Resolved:

(Moved: Councillors Shelley/Anderson)

- A. That Council enter into a lease agreement for five (5) years with Sous le Soleil Pty Ltd, in the terms contained within the report.
- D. That the execution of all documents relating to the lease be delegated to the Mayor and General Manager.
- E. That Council affix the Common Seal to any necessary documents.
- F. That public notification of the proposed lease is to be undertaken in accordance with Section 47A of the Local Government Act 1993.

CARRIED UNANIMOUSLY

237

1225 Pacific Highway, Turrumurra - Alterations to Existing Dwelling & Construction of a New Building for Combined Use as a Boarding House with 21 Rooms

File: DA1221/06

Ward: Wahrenonga

Applicant: JA Bourke, Homeplan Architects

Owner: Rinbac Pty Ltd

The following members of the public addressed Council:

D Petrucci

G Smith

A Rubinstein

To determine development application No.1221/06 for alterations to an existing dwelling and construction of a new building at the rear of the site to be used for boarding house accommodation comprising a total of 21 rooms.

Resolved:

(Moved: Councillor Cross/Mayor Ebbeck)

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT Council, as the consent authority, grant development consent to Development Application No. 1221/06 for alterations to an existing dwelling and construction of a new building to be used for boarding house accommodation on land at 1225 Pacific Highway, Turramurra, for a period of two years from the date of the Notice of Determination, subject to the following conditions of consent:

GENERAL CONDITIONS

Approved architectural plans and documentation (new development)

1. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

<i>Plan no.</i>	<i>Drawn by</i>	<i>Dated</i>
Drawing No. 14622		
DA 06 to 14624 DA 06	HPDR Architects	May 2007 received at Council on 31 May 2007
Landscape plan 14625		
DA 06 Rev B	HPDR Architects	May 2007 received at Council on 31 May 2007

Reason: To ensure that the development is in accordance with the determination of Council.

No demolition of extra fabric

2. Alterations to the existing building shall be limited to that documented on the approved plans No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the development consent.

Management plan

3. The boarding house must have an on-site manager who must be available 24 hours/7 days per week to manage the boarding house in accordance with the Management Plan submitted to Council on 10 April 2007. Each tenant must be given a copy of the house rules at check in time and copies shall be located in a prominent position in all communal facility rooms.

Reason: To maintain amenity of future residents and adjoining properties.

Tree removal

4. Approval is given under this development consent for the following tree works to be undertaken within the subject property:

Eucalyptus nicholii (Small Leaved Peppermint) Removal

Reason: Residential amenity

Landscape plan

5. Landscape Plan No. 14625 must be amended to provide an increased setback from the eastern boundary for the proposed *Angophora floribunda* of 2 metres minimum. Landscape works shall be carried out in accordance with Landscape Drawing No 14625 Amendment B prepared by HP DR Architects and dated November 2006, submitted with the Development Application.

Reason: To maintain amenity of the adjoining property

Tree protection

6. If tree roots are required to be severed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

Reason: To ensure tree retention

Tree protection

7. All excavation carried out within the specified radius of the trunk/s of the following tree/s shall be hand dug:

Liquidambar styraciflua (Liquidambar) 5 metres

Jacaranda mimosifolia (Jacaranda) 3 metres

Reason: To ensure tree retention

Tree protection

8. The applicant shall ensure that at all times during the site works no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

Reason: To ensure tree retention

Tree protection

9. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

Reason: To ensure tree retention

Tree protection

10. The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres, whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Reason: To maintain residential amenity.

Drainage to street

11. Stormwater runoff from all new impervious areas and subsoil drainage systems must be piped to the street drainage system. *New* drainage line connections to the street drainage system must conform and comply with the requirements described in sections 5.3 and 5.4 of Ku-ring-gai Council Water Management Development Control Plan 47. The applicant's attention is directed to the requirements for obtaining a *Road Opening Permit* for excavating in the road reserve.

Reason: To protect the environment

Stormwater detention

12. A rainwater retention and re-use system comprising storage tanks and ancillary plumbing must be provided for the development and existing dwelling. The (minimum) total storage volume of the rainwater tank system, and the prescribed re-use of the water on site, must satisfy all relevant BASIX commitments.

Reason: To protect the environment

Stormwater detention

13. In addition to the mandatory rainwater retention and re-use system provided, an **on-site stormwater detention** system must be provided for the development to control the rate of runoff leaving the site. The minimum volume of the required on-site detention system must be determined in accordance with chapter 6 of the Ku-ring-gai Council Water Management Development Control Plan 47 (DCP 47) - having regard to the specified volume concession offered in lieu of installing rainwater retention tanks. The design of the on-site detention system must be performed by a qualified civil/hydraulic engineer and must satisfy the design controls set out in appendix 5 of DCP 47.

Reason: To protect the environment

Driveway trench at boundary

14. For stormwater control a 200mm wide grated drain with heavy duty removable galvanized grates is to be located **within** the property at the intersection of the driveway and Council's footway to collect all surface water flowing down the

driveway. The drainage line from the grated drain shall be connected to the street system, either separately or via the main site outlet.

Reason: Stormwater control

Drainage of paved areas

15. To control surface runoff all new exposed impervious areas graded towards adjacent property and/or habitable areas are to be drained via the main drainage system. This may require the installation of suitable inlets pits, cut-off structures (e.g. kerb), and/or barriers that direct such runoff to the formal drainage system. Details for such measures shall be shown on the approved Construction Certificate issue drawings, to the satisfaction of the Principal Certifying Authority.

Reason: To control surface runoff and protect the environment

Utility service facility

16. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicant's full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services

Public infrastructure

17. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials and plant must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "*Traffic Control Devices for Work on Roads*". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

Reason: To ensure safe public footway & roadway during construction

Erosion control

18. The provision of temporary sediment and erosion control facilities and measures must be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.

Reason: To protect the environment from erosion & sedimentation

Vehicular access

19. Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with the minimum requirements of Australian Standard 2890.1 (2004) "Off-Street car parking".

Reason: To ensure that parking spaces are in accordance with the approved development

Sydney Water Section 73 Compliance Certificate (Part 1)

20. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. The Applicant is to refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Reason: Statutory requirement

Maintenance period

21. A maintenance period of six (6) months applies to all work in the public road reserve carried out by the applicant - **after** the works have been completed to the satisfaction of Ku-ring-gai Council. In that maintenance period, the applicant shall be liable for any section of the completed public infrastructure work which fails to perform in the designed manner, or as would reasonably be expected under the operating conditions. The maintenance period shall commence once the applicant's receives a written indication from Council stating that the works involving public infrastructure have been completed satisfactorily.

Reason: Maintain Council infrastructure

Access restriction and median strip

22. All vehicles shall enter and exit the site in a left turn movement only. In this respect, a central concrete median shall be provided in Ku-ring-gai Avenue that limits access to the proposed driveway from Ku-ring-gai Avenue to a left-in and left-out basis only. The median is to be designed to not compromise existing access arrangements for nearby driveways. Unobstructed pedestrian access shall be maintained across Ku-ring-gai Avenue and shall be considered in the design. The design is to be submitted to and approved by Council's Development Engineer prior to the issue of a Construction Certificate.

Reason: To ensure safe vehicular access

Land contamination

23. In accordance with the EPA (1999) *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes*, any waste soils being removed from the site need must be classified on the basis of soil quality to enable disposal to an appropriately licensed landfill facility.

Reason: Public health.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**Long service levy**

24. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

Reason: Statutory requirement.

Building Code of Australia - fire safety audit

25. An accredited certifier, building grade 1 or 2 (NSW or equivalent) is to be engaged to carry out a Building Code of Australia audit that is based upon inspections(s) of the building in terms of the deemed-to-satisfy fire safety provisions. A list of accredited certifiers is available on the Department of Planning website.

The audit must specifically cover all clauses within Section C, D and E of the Building Code of Australia (as per the most recent amendments) indicating compliance, non-compliance or not applicable in the circumstances.

The results of the audit are to be incorporated into a report and strategy to overcome the non-compliant provisions either by performance solution or

adherence to deemed-to-satisfy provisions by satisfying the fire safety objectives of Sections C, D and E of the Building Code of Australia.

A schedule of existing (if applicable) and the proposed essential fire safety measures, including their standard performance must be included in the strategy.

The report and strategy must be submitted to and approved by Council's Compliance Officer prior to issue of any Construction Certificate.

Reason: To ensure an adequate level of fire safety.

Amendments to architectural plans

26. The following amendments must be made to the plans prior to the release of the construction certificate:-
- (i) The new building must be facebrick (medium to dark face brickwork to match the existing house) not painted render.
 - (ii) Privacy screens must be provided on the outer edge of the balconies on the northern elevation and the upper rooms (16-20) on the western elevation consisting of horizontal louvres (upward angled) 1.5m high similar to those on the eastern side of the building.

Reason: To ensure the compatibility of the new building with the draft conservation area and to ensure the amenity of future residents and residents of adjoining properties.

Convex mirrors

27. Convex mirrors will be required at strategic locations on the driveway to inform ingressing and egressing vehicles of each other's presence. Details to be provided to Council for approval prior to the release of the construction certificate.

Reason: Maintain public safety

Driveway crossing levels

28. Prior to issue of the Construction Certificate, driveway and associated footpath levels for any fully new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Ku-ring-gai Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings" or as specified by Council. Specifications are issued with alignment levels after completing the necessary application form at Customer Services and payment of the assessment fee. When completing the request for driveway levels application from Council, the applicant must attach a

copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways *inside* the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels. The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

Reason: To provide suitable vehicular access without disruption to pedestrian & vehicular traffic

Sediment controls

29. Prior to issue of the Construction Certificate and prior to commencement of any works that may be subject to erosion, the applicant must submit, for approval by the Principal Certifying Authority, a Soil and Erosion Control Plan prepared in accordance with the Landcom document "*Managing Urban Stormwater – Soils and Construction, Volume 1*" (2004) . A qualified and experienced civil/environmental engineer shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Council's Water Management Development Control Plan 47.

Reason: To preserve and enhance the natural environment

Stormwater management plan

30. Prior to issue of the Construction Certificate the applicant must submit, for approval by the Principal Certifying Authority, scale construction plans and specifications in relation to the stormwater management and disposal system for the development. The plan(s) must include the following detail:
- Exact location and reduced level of discharge point to the public drainage system.
 - Layout of the property drainage system components, including but not limited to (as required) gutters, downpipes, pits, grated drains, swales, kerbs, flushing facilities, subsoil drainage and all ancillary plumbing - all designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence).
 - Location(s), dimensions and specifications for the required rainwater storage and reuse tank systems. Where proprietary products are to be used, manufacturer specifications and details must be provided.

- Specifications for reticulated pumping facilities (including pump type and manufacturer specifications) and ancillary plumbing to fully utilise rainwater in accordance with the BASIX commitments.
- Details of any required on-site detention tanks required under Ku-ring-gai Council Water Management DCP 47 including dimensions, materials, location, orifice and discharge control pit details as required (refer chapter 6 and appendices 2, 3 and 5 for volume, PSD and design requirements).

The above construction drawings and specifications are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Water Management Development Control Plan 47, Australian Standards 3500.2 and 3500.3 - *Plumbing and Drainage Code* and the BCA. The plans may be generally based upon the **Stormwater Drainage Plan N0629 CP-01 issue 'A'** prepared by **Accredited Structural Certifiers Pty Ltd** submitted for Development Application approval, which are to be advanced as necessary for construction issue purposes.

Reason: To protect the environment.

Engineering plans and specifications approved by Council (Roads Authority)

31. Prior to issue of the Construction Certificate the Applicant must have engineering plans and specifications prepared by a qualified consulting engineer and the plans approved by Council as the Roads Authority. The plans to be assessed must be to a detail suitable for construction issue purposes and must detail the following infrastructure works required in Ku-ring Gai Avenue to ensure suitable provision for safe vehicular egress/ingress close to the intersection:
 - a) Construction of a concrete central median in Ku-ring-gai Avenue that is designed to limit access to the proposed driveway from Ku-ring-gai Avenue to a left-in and left-out basis only. The median shall not compromise existing vehicular access arrangements for nearby driveways. A pedestrian route across Ku-ring-gai Avenue, free from obstructions, shall be maintained by a suitable gap in the median. The median shall be of a width to act as a pedestrian refuge and designed similar to a splitter island. The median shall include a 'keep left' sign at its apex, and barrier lines on the approach.
 - b) Installation of parking restriction signage, dedicating a "No Stopping" zone designed to allow vehicles to turn left from the subject driveway into Ku-ring-gai Avenue without obstruction. The zone is to extend for a distance of six metres east from the layback wing. Approval to be obtained from Ku-ring-gai Traffic Committee for installation of such signage, as well as 'keep left' and barrier lines.
 - c) Reconstruction of the existing concrete driveway and layback, and surrounding infrastructure. Existing footpath levels to be generally maintained.

Reason: To ensure that the plans are suitable for construction purposes.

Design of works in public road (Roads Act approval)

32. This Development Consent under the EP&A Act does **NOT** give approval to these works in the road reserve. **Ku-ring-gai Council must issue a separate consent under section 138 and 139 of *The Roads Act 1993*** for the works in the road reserve, required as part of the development. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued the formal written consent under the *Roads Act 1993*.

The required plans and specifications are to be designed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the stamped Council *Roads Act 1993* approval.**

A minimum of three (3) weeks will be required for Council to assess *Roads Act* submissions. Early submission is recommended to avoid delays in obtaining a Construction Certificate. An engineering assessment and inspection fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

Reason: To ensure that the plans are suitable for construction purposes.

Tree protection

33. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

Reason: To ensure tree protection

Landscape establishment bond

34. A CASH BOND/BANK GUARANTEE of \$ 4,000 shall be lodged with Council as a Landscape Establishment Bond prior to release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan/s and other landscape conditions. Fifty percent (50%) of this bond will be refunded upon verification by Council that the landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after the initial satisfactory inspection, where landscape works have been satisfactorily established and maintained.

It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

Reason: To maintain residential amenity.

Public health

35. Plans and specifications for the fitout and construction of the kitchen must be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate that comply with the requirements of the Food Act 2003, Food Standard Code Clause 3.2.3 (Food Premises and Equipment) and AS4674-2004 (Design, Construction and Fit-out of Food Premises).

Reason: To ensure compliance with standards for food premises.

Section 94 contribution – residential development

36. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF 20 ADDITIONAL DWELLINGS IS CURRENTLY \$172,468.20. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 30 June 2004, calculated for additional person as follows:

Community facilities	\$1,117.76
Park acquisition and embellishment works	\$4,723.00

Sports grounds works	\$1,318.32	
Aquatic / leisure centres	\$27.82	
Traffic and transport	\$150.28	
Section 94 Plan administration	\$100.04	
Contribution per person is:	\$7,437.18	
21 dwellings (1.27 persons)		\$198,349.59
Less credit for existing dwelling (3.48 persons)		\$25,881.39
Total contribution		\$172,468.20

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwellings (under 75sqm)	1.27 persons
Medium dwelling (75 – under 110sqm)	1.78 persons
Large dwelling (110 under 150sqm)	2.56 persons
Very large dwelling (150sqm or more)	3.48 persons
New lot	3.48 persons
SEPP (seniors living) dwelling	1.3 persons

Reason: To ensure the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of the development.

Infrastructure restorations fee

37. To ensure that damage to Council Property as a result of construction activity is rectified in a timely matter:
- All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council Property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
 - The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council Property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
 - The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
 - In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work

that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.

e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council Property associated with this condition.

Reason: To maintain public infrastructure

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

Construction and traffic management plan

38. Prior to the commencement of **any** works on site the applicant must submit, for review by Council Engineers, a *Construction and Traffic Management Plan*. The following matters must be specifically addressed in the Plan:

1. A plan view of the entire site and frontage roadways indicating:

- Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
- Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
- The locations of proposed Work Zones in the frontage roadways,
- Location of any proposed crane standing areas
- A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
- The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible

2. Traffic control plan(s) for the site:

- All traffic control devices installed in the road reserve must be in accordance with the RTA publication “Traffic Control Worksite Manual” and be designed by a person licensed to do so (minimum

RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.

- Approval is to be obtained from Ku-ring-gai Council for any temporary road closures or crane use from public property.

3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided:

- Light traffic roads and those subject to a load or height limit must be avoided at all times.
- A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.

In addition, the plan must address:

- Evidence of RTA concurrence where construction access is provided directly or within 20m of an Arterial Rd.
- A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements.
- Minimising construction related traffic movements during school peak periods.
- For those construction personnel that drive to the site, the Applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

The *Construction and Traffic Management Plan* shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation. As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council engineers shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site. A fee is payable for the assessment of the plan by Ku-ring-gai Council.

Reason: To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures that the ongoing safety and protection of people.

Work zone

39. If a Works Zone is proposed, the Applicant must make a written application to the Ku-ring-gai Local Traffic Committee to install the 'Work Zone'. The application must be made at least 15 days prior to the commencement of any works on site approved under this consent. Works Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the Ku-ring-gai Local Traffic Committee and submit a copy of this to the Principal Certifying Authority for approval prior to commencement of any works on the site. Where approval of the 'Work Zone' is resolved by the Committee, the necessary 'Work Zone' signage shall be installed (at the cost of the Applicant) and the adopted fee paid prior to commencement of any works on the site. Further, at the expiration of the Works Zone approval, the Applicant is required to remove the Works Zone signs and reinstate any previous signs, all at the Applicant's cost.

Reason: To ensure that appropriate measures have been made for the operation of the site during the construction phase.

Dilapidation survey and report

40. Prior to commencement of any works on site the applicant must submit to Council a dilapidation report of Pacific Highway and Ku-ring-gai Avenue for frontage of the site which identifies and provides a detailed photographic record of any/all defects to road reserve infrastructure especially extents of pavement cracking.

Reason: To record the structural condition of public infrastructure before works commence.

Landscaping requirements

41. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

<i>Liquidambar styraciflua</i> (Liquidambar)	4 metres
<i>Jacaranda mimosifolia</i> (Jacaranda)	2 metres

42. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.

Reason: To maintain amenity.

CONDITIONS TO BE SATISFIED DURING WORKS:**Prescribed conditions**

43. The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
- The work must be carried out in accordance with the requirements of the Building Code of Australia.
 - In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

Reason: Statutory requirement.

Statement of compliance with Australian Standards

44. The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

Reason: To ensure compliance with the Australian Standards.

Demolition, excavation and construction work hours

45. Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00pm Monday to Friday, with regular breaks of 15 minutes each hour.

Reason: To ensure reasonable standards of amenity to neighbouring properties.

Site notice

46. A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

Use of road or footpath

47. During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Reason: To ensure safety and amenity of the area.

Recycling of building material (general)

48. During demolition and construction, the Principal Certifying Authority shall be satisfied that building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

Reason: To facilitate recycling of materials.

Construction signage

49. All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken

- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m²
- are removed within 14 days of the completion of all construction works

Reason: To ensure compliance with Council's controls regarding signage.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

Compliance with BASIX certificate

50. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that all commitments listed in BASIX Certificate No. 120238M have been complied with.

Reason: Statutory requirement.

Fire safety certificate

51. Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire or other safety measures forming part of this consent has been completed and provided to Council.

Note: A copy of the Fire Safety Certificate must be submitted to Council.

Reason: To ensure suitable fire safety measures are in place.

Landscape works

52. The landscape works, shall be installed in accordance with the approved plan/s and/ or conditions of consent, be completed prior to release of Occupation Certificate and be maintained in a healthy and vigorous condition at all times.

Reason: To ensure compliance with landscape plan

Landscape works

53. The Principal Certifying Authority shall ensure that the landscape works, have been installed correctly, consistent the approved landscape plan(s), specification and the conditions of consent prior to release of the Occupation Certificate.

Reason: To maintain residential amenity.

Reinstatement of redundant crossings and completion of infrastructure works

54. Prior to issue of the Occupation Certificate, the Principal Certifying Authority (where not Council) must provide Ku-ring-gai Council with a signed declaration that the following works in the road reserve have been completed in full:

- New concrete driveway crossing in accordance with levels and specifications issued by Council.
- Removal of **all** redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter. (Reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials).
- Full repair and resealing of any road surface damaged during construction.
- Full replacement of damaged sections of grass verge with a non-friable turf of native variety to match existing.
- All works must be completed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

Reason: To protect the streetscape.

OSD positive covenant/restriction

55. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88 E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

Reason: To protect the environment.

OSR positive covenant/restriction

56. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site stormwater retention and re-use facilities on the property. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instruments for protection of retention and re-use facilities" (refer to appendices of Ku-ring-gai Council Water Management DCP 47) and to the satisfaction of Council. For existing Titles, the Positive Covenant

and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the reuse and retention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms. Registered title documents showing the covenants and restrictions must be submitted and approved by the Principal Certifying Authority prior to issue of an Occupation Certificate.

Reason: To protect the environment.

Provision of copy of OSD/OSR designs if Council is not the PCA

57. Prior to issue of the Occupation Certificate the following must be provided to Council (attention Development Engineer):
- A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
 - A copy of any works-as-executed drawings required under this consent
 - The Engineer's certification of the as-built system.
 - This condition is required so Council may maintain its database of as-constructed on-site stormwater detention systems, and applies particularly where the appointed Principal Certifying Authority (PCA) is not Ku-ring-gai Council.

Reason: For Council to maintain its database of as-constructed on-site stormwater detention systems.

Infrastructure repair

58. Prior to issue of the Occupation Certificate any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council Engineers at no cost to Council.

Reason: To protect public infrastructure.

Sydney water Section 73 Compliance Certificate (Part 2)

59. Prior to issue of an Occupation Certificate the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority.

Reason: Statutory requirement

Certification of drainage works

60. Prior to issue of the Occupation Certificate a qualified and experienced consulting civil/hydraulic engineer must undertake a site inspection of the completed stormwater drainage and management system. The engineer is to provide written certification based on the site inspection to the Principal

Certifying Authority, prior to issue of the Occupation Certificate, which makes specific reference to all of the following:

- That the stormwater drainage works have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans.
- That the minimum retention and on-site detention storage volume requirements of BASIX and Ku-ring-gai Council Water Management DCP 47 respectively, have been achieved in full.
- That retained water is connected and available for uses including **BASIX or DCP 47 commitments (all toilet flushing and garden irrigation)**.
- That basement and subsoil areas are able to drain via a pump/sump system installed in accordance with AS3500.3 and appendix 7.1.1 of Ku-ring-gai Council Water Management DCP 47.
- That all grates potentially accessible by children are secured.
- That components of the new drainage system have been installed by a licensed plumbing contractor in accordance with the Plumbing and Drainage code AS3500.3 2003 and the BCA, and
- All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The following certification sheets **must be accurately completed and attached** to the certification:

- Rainwater retention certification sheet contained at appendix 13 of Water Management DCP 47
- On-site detention certification sheet contained at appendix 4 of Water Management DCP 47.

Reason: To protect the environment.

WAE plans for stormwater management and disposal

61. Prior to issue of the Occupation Certificate a registered surveyor must provide a Works-as-Executed (WAE) survey of the completed stormwater drainage and management systems. The WAE plan(s) must be submitted to the Principal Certifying Authority for approval prior to issue of the Occupation Certificate. The WAE survey must indicate:

- As built (reduced) surface and invert levels for all drainage pits.
- Gradients of drainage lines, materials and dimensions.
- As built (reduced) level(s) at the approved point of discharge to the public drainage system.
- As built location and internal dimensions of all detention and retention structures on the property (in plan view) and horizontal distances to nearest adjacent boundaries and structures on site.
- The achieved storage volumes of the installed retention and detention storages and derivative calculations.

- As built locations of all access pits and grates in the detention and retention system(s), including dimensions.
- The size of the orifice or control fitted to any on-site detention system.
- Dimensions of the discharge control pit and access grates.
- The maximum depth of storage possible over the outlet control.
- Top water levels of storage areas and indicative RL's through the overland flow path in the event of blockage of the on-site detention system.

The WAE plan(s) must show the as-built details above in comparison to those shown on the drainage plans approved with the Construction Certificate prior to commencement of works. All relevant levels and details indicated must be marked **in red** on a copy of the Principal Certifying Authority stamped construction certificate stormwater plans.

Reason: To protect the environment.

Construction of works in public road – approved plans

62. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.

Reason: To ensure that works undertaken in the road reserve are to the satisfaction of Council.

Public health

63. Submission of a certificate of compliance by a suitably qualified person for the kitchen to be used for the storage and preparation of food. The certificate shall demonstrate compliance with the Food Act 2003, Food Standard Code Clause 3.2.3 (Food Premises and Equipment) and AS4674-2004 (Design, Construction and Fit-out of Food Premises).

Reason: To ensure compliance with standards for food preparation.

For the Resolution: *The Mayor, Councillor N Ebbeck, Councillors Andrew, Bennett, Cross, Hall, Shelley & Anderson*

Against the Resolution: *Councillors Malicki & Ryan*

238 **9A Curagul Road, North Turramurra - Section 82A Review of Determination (Refusal of Consent) for a Villa Home & Townhouse Development comprising 17 Dwellings & Strata Subdivision**

File: DA1377/05-2

Ward: Wahroonga

The following member of the public addressed Council:

C Blyth

Approval subject to conditions.

Resolved:

(Moved: Councillor Cross/Mayor Ebbeck)

That the Section 82A Application for Curagul Road be deferred for clarification of any gazetted restrictions on multi-unit development in North Turramurra.

CARRIED UNANIMOUSLY

239 **Investment & Loan Liability as at 31 May 2007**

File: S02722

To present to Council investment allocations, returns on investments and details of loan liabilities for May 2007.

Resolved:

(Moved: Councillors Ryan/Andrew)

- A. That the summary of investments and loan liabilities for May 2007 be received and noted.
- B. That a review of the format of the investment and loan reports together with the policy for investing Council funds be brought to the next Finance Committee.

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Bennett, Cross, Hall, Ryan & Shelley*

Against the Resolution: Councillors Malicki & Anderson

*The above Resolution was CARRIED as an Amendment to the Original Motion.
The Original Motion was:*

(Moved: Councillors Bennett/Ryan)

- A. *That the summary of investments and loan liabilities for May 2007 be received and noted.*
- B. *That staff review the format of the investment and loan reports.*
- C. *Where possible a report be provided to Council before investment on new funds is commenced.*
- D. *That a briefing on current and future investment opportunities be provided to Councillors.*

240

Motions for 2007 NSROC Annual Conference

File: S02342

To consider motions for submission to the NSROC 2007 Annual Conference.

Councillor Ryan withdrew during discussion

Resolved:

(Moved: Councillors Shelley/Andrew)

- A. That the following motions regarding Fringe Benefits Tax Legislation vs Sustainability principles and Climate Change be submitted to the 2 August 2007 NSROC Annual Conference:
 - 1. That NSROC submit to the Local Government Conference a motion to make representation to the appropriate bodies to request amendments to the current Fringe Benefits Tax legislation that encourages the overuse of vehicles to achieve tax benefit at the detriment of human health and the environment. This legislation should encourage a commitment to sustainable principles that would provide incentives to lessen vehicle kilometres travelled, encourage fuel efficient and alternative fuel vehicles and promote other alternative transport incentives for companies.
 - 2. That NSROC submit to the Local Government Conference a motion to call on State government to develop a comprehensive strategy that will address mitigation and adaptation to climate change. This should investigate State and Local government's current and future liability across policy, planning, infrastructure and asset management, operations and investment strategy area as well as promoting leadership and demonstrating a sound commitment to sustainability.

3. Further that NSROC consider developing a comprehensive regional strategy that addresses the matters listed in (2) above.
- B. That interested Councillors advise the General Manager by 20 July 2007 should they wish to attend the Conference with priority being given to Councillors who are already delegates to NSROC.

CARRIED UNANIMOUSLY

Councillor Ryan returned

241 **Bushland, Catchments & Natural Areas Reference Group Meeting -
Minutes of 18 June 2007**

File: S03448

To bring to the attention of Council the proceedings from the Bushland, Catchments and Natural Areas Reference Group meeting held on Monday, 18 June 2007.

Resolved:

(Moved: Councillors Bennett/Shelley)

- A. That the Minutes of the Bushland, Catchments & Natural Areas Reference Group Meeting of Monday, 18 June 2007 be received and noted.
- B. That the ground truth records prepared for the environmentally sensitive LEP be scanned into the TRIM System and incorporated into the comprehensive LEP process.

CARRIED UNANIMOUSLY

242 **Parks, Sport & Recreation Reference Group - Minutes of Meeting held
24 May 2007 & Renewal of Reference Group Membership**

File: S03447

To bring to the attention of Council, the Minutes from the Parks, Sport and Recreation Reference Group meeting held on Thursday, 24 May 2007.

Resolved:

(Moved: Councillors Hall/Anderson)

- A. That the Minutes of the Parks, Sport and Recreation Reference Group meeting, held on Thursday, 24 May 2007, be received and noted.

- B. That the Parks Sport & Recreation Reference Group Charter be amended to identify a maximum membership of eighteen (18) members.
- C. That the eighteen (18) nominations be accepted along with the late nomination from Dr S Thomas as members of the Parks, Sport and Recreation Reference Group, effective 17 July 2007 until the next scheduled local government election in September 2008.
- D. That the three (3) retiring members be thanked for their input and contributions to the Parks Sport and Recreation Reference Group.

For the Resolution: Councillors Andrew, Bennett, Hall, Ryan, Shelley & Anderson

Against the Resolution: The Mayor, Councillor N Ebbeck, Councillors Cross & Malicki

The above Resolution was subject to two LOST Amendments. The first LOST Amendment was:

(Moved: Councillors Shelley/Bennett)

- A. *That the Minutes of the Parks, Sport and Recreation Reference Group meeting, held on Thursday, 24 May 2007, be received and noted.*
- B. *That the Parks Sport & Recreation Reference Group Charter be amended to identify a maximum membership of seventeen (17) members declining the nomination of the Oztag representative.*
- C. *That the seventeen (17) other nominations be accepted including the late nomination from Dr S Thomas as members of the Parks, Sport and Recreation Reference Group, effective 17 July 2007 until the next scheduled local government election in September 2008.*
- D. *That the three (3) retiring members be thanked for their input and contributions to the Parks Sport and Recreation Reference Group.*

The second LOST Amendment was:

(Moved: Councillors Malicki/Cross)

- A. *That the Minutes of the Parks, Sport and Recreation Reference Group meeting, held on Thursday, 24 May 2007, be received and noted.*
- B. *That the three (3) retiring members be thanked for their input and contributions to the Parks Sport and Recreation Reference Group.*

- C. *The three replacement members be J McLellan, J McFadden and P Rezek and that this membership remains until the next scheduled local government election in September 2008.*

**Council adjourned for a short interval at 10.15pm
after a Motion moved by Councillors Ryan & Bennett was CARRIED
and the Chairperson ruled accordingly.
The Meeting resumed at 10.20 pm**

Those present were:

The Mayor, Councillor Ebbeck
Councillor Anderson
Councillor Andrew
Councillor Bennett
Councillor Cross
Councillor Hall
Councillor Malicki
Councillor Ryan
Councillor Shelley

243 **16 Stanhope Road, Killara - Potential Heritage Item**

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File: P59155

For Council to consider the independent heritage assessment of 16 Stanhope Road, Killara.

Councillor Bennett returned

Resolved:

(Moved: Councillors Anderson/Shelley)

That consideration of the matter be deferred pending a site inspection.

CARRIED UNANIMOUSLY

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

244 **Affordable Housing in Ku-ring-gai**

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File: S03900

Notice of Motion from Councillor T Hall dated 9 July 2007.

I move:

"That Council seek to take a more active role in the provision of affordable housing for older people in the Ku-ring-gai community to help address the issue of "ageing in place".

This should include investigations into the potential to use community classified land with particular reference to the opportunities presented by the Lindfield Library site at 259 to 271 Pacific Highway, Lindfield".

Resolved:

(Moved: Councillors Hall/Shelley)

That the above Notice of Motion as amended be adopted.

*For the Resolution: The Mayor, Councillor N Ebbeck, Councillors
Andrew, Cross, Hall & Anderson*

Against the Resolution: Councillors Bennett, Malicki, Ryan & Shelley

*The above Resolution was subject to an Amendment which was LOST. The
LOST Amendment was:*

(Moved: Councillors Bennett/Malicki)

- A. *"That Council seek to take a more active role in the provision of affordable housing for older people in the Ku-ring-gai community to help address the issue of "ageing in place".*

This should include investigations into the potential to use community classified land with particular reference to the opportunities presented by the Lindfield Library site at 259 to 271 Pacific Highway, Lindfield".

- B. *That this investigation does not include the provision of affordable housing as an offset for the private development of Council owned land which is community classified and not subject at this point to possible reclassification.*

245 **Installation of Solar Panels**

File: S02853

Notice of Motion from Councillor T Hall dated 9 July 2007.

I move:

"That the current review of Council's exempt and complying development control plan include the installation of solar panels for hot water systems and other solar panels as exempt development, with the exception of heritage listed developments, and that the details of its inclusion in the exempt and complying development control plan be discussed at the next Planning Committee".

Resolved:

(Moved: Councillors Hall/Andrew)

That the above Notice of Motion as printed be adopted.

CARRIED UNANIMOUSLY

Councillor Cross departed

246 **102 Rosedale Road, St Ives**

File: P57397

Notice of Motion from Councillor T Hall dated 9 July 2007.

Councillor Ryan departed during discussion

On 26 September 2006, Council resolved Minute No 386 to determine a course of action regarding the purchase of 102 Rosedale Road, St Ives. The purchase is to ensure the ongoing protection of the significant ecological community contained within the land.

The General Manager has undertaken negotiations with the owners of the land within the delegated authority.

The owners of the land have refused all offers submitted by Council, and have now lodged a Development Application for a single residential development on the land.

Given the significance of the ecological community contained within the land, Council needs to consider an alternative course of action to effect the acquisition and conservation of the land.

This could be best achieved by Council authorising the General Manager to further negotiate with the owners of the land or their representatives to progress this matter and advise Council as a matter of urgency the results of discussions for its consideration.

I move:

"That Council authorise the General Manager to undertake further discussions with the owners of the land or their representatives and report the matter to Council.

The General Manager seeks further opportunities, commitment, resources and partnership from Commonwealth and State agencies in relation to the acquisition and conservation of this land and these matters are included in reporting to Council.

That consideration of this matter by Council be held in Confidential
(Section 10A(2)(c) – Information that would confer a commercial advantage)".

Debate on the above Notice of Motion was terminated by the Mayor

247 **Former Freeway Corridor Land in South Turramurra**

.
File: S04534

Notice of Motion from Councillor E Malicki dated 9 July 2007.

I move:

"That the residential component of the development of freeway corridor land in South Turramurra be pursued as a Sustainable Village. Council through negotiations with other landholders and through a specific DCP for the site that should seek the highest standards for sustainable design encapsulating energy and water conservation, landscaping to promote biodiversity, community responsibility, social benefit and economic soundness, so that the area becomes a model for similar development throughout Sydney. The recent paper and presentation concerning the Thuringowa Village development at the ITCC Conference provides a solid background and guidance to this proposal". That the matter be submitted to a Planning Committee for further discussion.

Resolved:

(Moved: Councillors Malicki/Andrew)

That the above Notice of Motion as amended be adopted.

CARRIED UNANIMOUSLY

**At 11.50pm a Motion moved by Councillors Shelley & Anderson
to extend the meeting until Business Paper is completed
was put to the vote and CARRIED UNANIMOUSLY**

248 **Turramurra Village Park - Corner William Street & Pacific Highway,
Turramurra**

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File: S05033

Notice of Motion from Councillor E Malicki dated 9 July 2007.

Given the intensified development of Turramurra Town Centre and the surrounding highway corridor any area of open space within the vicinity should be managed as a

precious resource. Turramurra Village Park is one of those areas. It is however currently acknowledged as being poorly designed and unattractive. It would be motivating for the Turramurra Community if Council were to begin work with the community to create a vibrant and attractive place, a park that is desirable to use and of real value to the people of Turramurra and Ku-ring-gai.

I move:

"That the consultation and design for the future park on this site commence during 2007/2008, with the capacity for staged work to commence in this period subject to future resolution of Council".

Motion:

(Moved: Councillors Malicki/Andrew)

That the above Notice of Motion as printed be adopted.

*For the Lost Motion: The Mayor, Councillor N Ebbeck, Councillors
Andrew & Malicki*

*Against the Lost Motion: Councillors Bennett, Hall, Ryan, Shelley &
Anderson*

The above Notice of Motion when put to the vote was LOST

QUESTIONS WITHOUT NOTICE

249

Petition on Acron Oval

File: S03014

Question Without Notice from Councillor E Malicki

A speaker on the petition on Acron tonight said he had seen the petition and that many of the signatories were not from the area.

Did anyone from Staff show this person the petition as I would imagine there are privacy issues with this?

Answer by the General Manager

Not that I am aware of but I am certainly happy to confirm with Directors tomorrow.

250 **Section 96 Applications**

File: S04891

Question Without Notice from Councillor L Bennett

How many S.96 applications have been successfully lodged over the past 2 years to -

- a. Obtain consent for unauthorised work (ie work undertaken in breach of the original conditions of consent).
- b. Obtain consent for changes to DAs covering -
 - 1. LEP 194 applications.
 - 2. SEPP5 applications.
 - 3. Dual Occupancy applications?

Answer by the Mayor

The Director will take that on notice & get back to you.

251 **Request for More Yield in Ku-ring-gai Town Centres**

File: S04151

Question Without Notice from Councillor T Hall

Mr Mayor, I refer to the Department of Planning's letter of 4 July 2007, requesting more medium density residential yield than provided in the Council's draft Town Centres LEP & I ask you whether there is any threat on this Council for its planning powers to be revoked by the Planning Minister in favour of a planning panel to meet these State Government further demands?

Answer by the Mayor

I will take that on notice, Councillor Hall.

252 **Community Housing**

File: S04445

Question Without Notice from Councillor M Shelley

Would the Mayor or General Manager contact Mr Gil Davis to investigate further what assistance he may be able to provide to Council in regard to community housing in Ku-ring-gai and advise Councillors of the outcome of such discussions?

Answer by the General Manager

I will have the appropriate Director contact Mr Davis.

253 **Response to Questions from Council Meetings of 8 & 22 May 2007**

File: S02367, P45675

Question Without Notice from Councillor M Shelley

Would the General Manager ensure that I receive response to my Questions Without Notice, on 8 May 2007 regarding community noticeboards and my Question Without Notice on 22 May 2007 regarding signage for the Holy Family School?

Answer by Director Operations

Mr Mayor, I believe the one on the community noticeboards was answered. I will have to go back & chase that. I do understand that the one Holy Cross one I did refer to the Traffic Staff, the Holy Family, so I will chase that up.

Councillor Hall departed

254 **Acron Oval Petition**

File: S03014

Question Without Notice from Councillor E Malicki

Did any Councillor ask for or receive a copy of the petitions on Acron Oval, please?

Answer by the Mayor

The General Manager will report back.

Prior to the closure of the Meeting, the Mayor congratulated Councillor Andrew & Mr Head, Director Strategy for the wonderful presentation at the 8th International Cities, Town Centres & Communities Conference.

The Mayor also asked that the General Manager pass on congratulations to Alison Walker and Jennifer Cronan for the design at Cameron Park & that the efforts of all staff involved was unbelievable.

The Meeting closed at 11.55pm

The Minutes of the Ordinary Meeting of Council held on 17 July 2007 (Pages 1 - 44) were confirmed as a full and accurate record of proceedings on 24 July 2007.

General Manager

Mayor / Chairperson